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STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF WAYNE

CHRISTINE WILLIAMS, as Guardian and Conservator of GEORGE WILLIAMS, Legally Incapacitated Adult,

Plaintiffs,

Vs.

Case No. 04-435505NF HON. KATHLEEN MacDONALD

AUTO CLUB INSURANCE ASSOCIATION,

Defendant.

The Videotaped-Deposition of CYNTHIA REDPATH, taken before Sandra L. Krisfalusi, a Certified Shorthand Reporter, #0942, and Notary Public in and for the County of Macomb, acting in the County of Wayne, State of Michigan, located at 1000 Woodbridge Street, Detroit, Michigan, on Friday, the 21st Day of July, 2006, at 9:46 a.m.

Macomb Court Reporters, Inc. (586) 468-2411

	Page	2	
1	APPEARANCES:		Page .
2	THOMAS, GARVEY, GARVEY & SCIOTTI		Detroit, Michigan
	Attorneys at Law	- 1	On Friday, July 21, 2006
3	24825 Little Mack	i	At 9:46 a.m
	St. Clair Shores, Michigan 48080	- 1	<u> </u>
4 5	BY: JAMES McKENNA, ESQUIRE. Appearing on behalf of the Plaintiffs.	1	MR. BURKEEN: We are on the
6	Appearing on behan of the Flaminis.	- 1	record. This is the videotaped-deposition of
7	GARAN LUCOW MILLER, P.C.	1	Cynthia Redpath being taken on July 21, 2006. Th
	Attorneys at Law	8	time is now 9:46 a.m.
8	1000 Woodbridge Street	2	ivis marie is difficult durkeen.
9	Detroit, Michigan 48207-3192	1	race toominorum.
10	BY: TIMOTHY E. O'NEILL, ESQUIRE. Appearing on behalf of the Defendant.	1	Will the attorneys offerry
11	Appearing on ochan of the Defendant.	1:	and appearances for the record, please.
12		1:	MR. McKENNA: James McKenna
	Also Present: Ernest W. Burkeen, III,	1.	Ind I tellitelli.
13	Video Technician.	1:	THE OTHER TO
14 15		16	the Defendant.
16		1	THE BOILDERY. WITH THE COURT
17		18	reporter please swear-in the Witness.
18		19)
19		20	CYNTHIA REDPATH,
20 21		23	Being first duly sworn to tell the truth, the
22		22	whole truth and nothing but the truth, was
23		23	examined and testified as follows:
24		24	MR. McKENNA: Could you state
25		25	your name for the record, please?
	Page 3		Page 5
1		1_	_
_	INDEX PAGE	1	THE WITNESS: Cynthia Redpath.
2	75	2	MR. McKENNA: Let the record
3	Direct Examination by Mr. McKenna 5	3	reflect this is the date and time scheduled for
4		4	the deposition of Cynthia Redpath taken pursuant
5		5	to Notice and to be used for any and all purposes
6		6	allowed under the Michigan Court Rules.
7		7	DIRECT EXAMINATION
8		8	BY MR. McKENNA:
9		9	Q Miss Redpath, I'm going to ask you some questions
10		10	today regarding your employment with the Auto
11	EXHIBITS PAGE	11	Club.
12	Exhibit #1 (e-mail) 14	12	If at any time I ask a
13	Exhibit #2 (Status Report) 16	13	question you don't understand, will you please let
14	Exhibit #3 (Status Report) 17	14	me know?
15	(15	A Yes.
16		16	Q If at any time you answer a question indicating
17		17	you don't know, you're not sure, you don't
18		18	remember or you'd just like to have that question
19		19	repeated, would you do that for me as opposed to
20		20	trying to change the question?
21		21	A Yes.
22		22	Q If you've given an answer and you've indicated
23		23	that you're not sure and don't remember but later
	*		
24 25		24	on you do, will you let me know and you can change

2 (Pages 2 to 5)

department. A Yes. Communication by who?						.de
2 Q Likewise, if you've given an answer to a question and you've indicated that you were certain of the answer, but later on for whatever reason you're not — later on for whatever reason you realize that you'd like to change the answer, let me know and you can change that as well, okay? A Yes. 9 Q At the conclusion of the deposition, the court reporter will type up each of the questions that 1 have asked you, as well asy our answers. Whenever the judge or the jury or anyone else reads this, we will all assume that you've answers decause you understand the question. Is that fair? 12 A Yes. 15 Q Because I told you don't answer if you don't understand? 18 A Yes. 19 Q We'll allo assume that all of your questions and your answers are accurate and truthful. Is that fair? 20 A Yes. 31 Q Are you currently employed with the Auto Club? A Yes. 32 Q Are you currently employed with the Auto Club? A Yes. 33 A I read the CPS memos. 4 Q Your CPS memos hack to about November of '99. 5 Q Not just the ones that dealt with your involvement; is that correct? 5 A Yes. 5 Q Have you reviewed any deposition transcripts? 5 A Yes. 6 Q I Have you watched any deposition videotapes? 1 A No. 1 Q Have you watched any deposition videotapes? 2 A No. 3 A Mr. O'Neill. 4 Q Mad did that occur during your meeting? 5 A Yes. 1 A Yes. 2 A Yes. 3 Q Are you currently employed with the Auto Club? 4 A Yes. 3 A I read the CPS memos. 4 Q Your CPS memos hack to about November of '99. 5 A Correct. 9 A I read the CPS memos. 4 Q Your CPS memos to your deposition transcripts? 5 A Yes. 6 Q I Have you looked at or reviewed anything eise? 9 A Yes. 9 Q Have you looked at or reviewed anything eise? 10 A No. 11 Q Have you watched any deposition videotapes? 12 A No. 13 Q Have you watched any deposition videotapes? 14 A Mr. O'Neill. 15 Q More you looked at or reviewed anything eise? 16 A No. 17 A Mr. O'Neill. 18 Q Have you rever the question. 19 A Meensday. 20 Q Were you provided any			Page	6		Page 8
2 Q Likewse, it you've given an answer to a question 3 and you've indicated that you were certain of the 4 answer, but later on for whatever reason you're 5 not - later on for whatever reason you're 6 not - later on for whatever reason you're 7 and you can change that as well, okay? 8 A Yes. 9 Q At the concluston of the deposition, the court 9 the you'd like to change the answer, let me know 10 reporter will type up each of the questions that I 11 have asked you, as well as your answers. Whenever 11 the judge or the jury or anyone else reads this, 12 we will all assume that you've answered because 12 you understand the question. Is that fair? 13 A Yes. 14 Q Because I told you don't answer if you don't 15 A Yes. 16 Q Because I told you don't answer if you don't 16 understand? 18 A Yes. 19 Q We'll also assume that all of your questions and 20 your answers are accurate and truthful. Is that 21 fair? 22 A Yes. 23 Q Are you currently employed with the Auto Club? 24 A Yes. 25 Q Have you reviewed anything besides the file that I 26 A Yes. 27 Q For more shack to about November of '99. 28 A Correct. 29 A Correct. 30 Q As a claims specialist in reserves, do you 30 A I read the CPS memos? 40 A Yes. 40 Yes. 41 Yes. 41 Yes. 42 A Yes. 43 Yes. 44 Yes. 45 Q Have you reviewed any deposition transcripts? 46 A No. 47 Yes. 48 Yes. 49 Other than what you've just indicated? 40 And when did you meet with Mr. ONeill? 40 And when did you meet with Mr. ONeill? 41 A Wendesday. 41 Yes. 42 A No. 43 Yes. 44 Yes. 45 Q Have you provided any additional materials while 45 Yes. 46 Yes. 47 Yes. 48 Yes. 49 Yes. 40 Yes. 40 Yes. 40 Yes. 40 Yes. 41 Yes. 41 Yes. 41 Yes. 41 Yes. 41 Yes. 41 Yes. 42 A Yes. 43 Yes. 44 Yes. 45 Yes. 46 Yes. 47 Yes. 48 Yes. 49 Yes. 40 Yes. 41 Yes. 41 Yes. 41 Yes. 42 A Yes. 43 Yes. 44 Yes. 46 Yes. 47 Yes. 48 Yes. 49 Yes. 40 Yes.	1	-			1	denartment
and you've indicated that you were certain of the answer, but later on for whatever reason you're incompared, but later on for whatever reason you're and you can change that as well, okay? A Yes.	2	(Likewise, if you've given an answer to a question	ì	_	
answer, but later on for whatever reason you're not - later on for whatever reason you're that you'd like to change the answer, let me know and you can change that as well, okay? 8	3		and you've indicated that you were certain of the	- 1		A F-mails to myself from the legal denominant
5 hot later on for whatever reason you realize 6 that you'd like to change the answer, let me know and you can change that as well, okay? 8 A Yes. 9 Q At the conclusion of the deposition, the court reporter will type up each of the questions that I have saked you, as well as your answers. Whenever the judge or the jury or anyone else reads this, we will all assume that you've answered because you understand the question. Is that fair? 15 A Yes. 16 Q Because I told you don't answer if you don't understand? 17 understand? 18 A Yes. 19 Q We'll also assume that all of your questions and your answers are accurate and truthful. Is that fair? 22 A Yes. 23 Q Are you currently employed with the Auto Club? 24 A Yes. 25 Q Have you reviewed anything besides the file that I have in front of me prior to your deposition today? 3 A I read the CPS memos. 4 Q Your CPS memos or everyone's CPS memo? 5 A Correct. 9 Q Have you looked at or reviewed anything else? 10 A No. 10 Q Have you watched any deposition transcripts? 10 A No. 11 Q Have you watched any deposition transcripts? 12 A No. 13 Q Have you watched any deposition transcripts? 14 A No. 15 Q Have you watched any deposition transcripts? 15 A No. 16 Q And did that occur during you him. 16 Q Did you bring the purple file? 17 A Mr. O'Neill. 18 Q And your e-mails that were removed the materials from? 18 A Yes. 19 Q We'll allso assume that all of your questions and your answers are accurate and truthful. Is that fair? 10 A Yes. 11 A Yes. 12 Q A Yes. 12 Q S Is that what he removed the materials from? 12 A Yes. 13 Q A rey ou currently employed with the Auto Club? 14 A Yes. 15 Q A Yes. 26 Q Have you reviewed anything besides the file that I 1 have in front of me prior to your deposition transcripts? 16 A Correct. 17 A No. 18 Q O You Type memos or everyone's CPS memo? 18 A Correct. 19 Q Were you looked at or reviewed anything elses? 10 A No. 11 Q Have you met with anyone to prepare your deposition testimony today? 12 A No. 13 Q Have you met with anyone to prepare your deposition test	4		answer, but later on for whatever reason you're	1	4 1	And do you know what data the reason it.
that you'd like to change the answer, let me know a nay our can change that as well, okazy? A Yes. Q At the conclusion of the deposition, the count of the asked you, as well as your answers. Whenever the judge or the jury or anyone else reads this, we will all assume that you've answered because you understand the question. Is that fair? A Yes. Q Because I told you don't answer if you don't understand? A Yes. Q Well also assume that all of your questions and you you answers are accurate and truthful. Is that fair? A Yes. Q Well also assume that all of your questions and you you answers are accurate and truthful. Is that fair? A Yes. A All understand it your job is in — a claims specialist for reserves, do you routnerly communicate with the legal department? A Yes A Correct. Page 7 A Yes A Correct. A Yes Your CPS memos or everyone's CPS memo? A CPS memos back to about November of '99. A No. A Have you looked at or reviewed anything else? A No. A Have you watched any deposition transcripts? A No. A Have you watched any deposition transcripts? A No. A Wednesday. A Mr. O'Neill. A Mr. O'Neill. A Mr. O'Neill. A Mr. O'Neill. A Yes. Don't answer removed those e-mails? A Mr. O'Neill. A Mr. O'Neill. A Yes. Q And your e-mails that were removed, do you know whether those e-mails vere before or after litigation was filed on this case? A fiter. A Yes. A fiter. A Yes. A fiter. A Yes. A fiter. A Yes. C Orrect. A Sa c lumersand it your job is in — a claims specialist for reserves; is that correct? A Correct. A Yes. C Orrect. A Sa c laims specialist in reserves, do you routnerly communicate with me. C So if a reserve is going to be increased as a result of litigation they would communicate with me. C So if a reserve is going to be increased as a result of litigation they would communicate with was removed fr	5		not later on for whatever reason you realize	- 1		And do you know what date those e-mails were?
and you can change that as well, okay? 8 A Yes. 9 Q At the conclusion of the deposition, the court reporter will type up each of the questions that I have asked you, as well as your answers. Whenever the judge or the jury or anyone else reads this, well all assume that you've answered because you understand the question. Is that fair? 14 A Yes. 16 Q Because I told you don't answer if you don't understand? 17 understand? 18 A Yes. 19 Q We'll also assume that all of your questions and you answers are accurate and truthful. Is that fair? 20 your answers are accurate and truthful. Is that fair? 21 A Yes. 22 A Yes. 23 Q Are you currently employed with the Auto Club? 24 A Yes. 25 Q Have you reviewed anything besides the file that I 26 Page 9 Page 7 Page 9 Page	6		that you'd like to change the answer let me know	j		
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have asked you, as well as your answers. Whenever to the jury or anyone clse reads this, we will all assume that you've answered because you understand the question. Is that fair? A Yes. 16 Q Because I told you don't answer if you don't understand? 18 A Yes. 19 Q Well also assume that all of your questions and your answers are accurate and truthful. Is that fair? 21 A Yes. 19 Q Well also assume that all of your questions and your answers are accurate and truthful. Is that fair? 21 A Yes. 22 A Yes. 23 Q Are you currently employed with the Auto Club? 24 A Yes. 25 Q Have you reviewed anything besides the file that I 2 today? 3 A I read the CPS memos. 4 CPS memos back to about November of '99. 5 A CPS memos back to about November of '99. 6 Q Not just the ones that dealt with your involvement; is that correct? 8 A Correct. 9 A Ares you looked at or reviewed anything else? 10 A No. 11 Q Have you reviewed any deposition transcripts? 12 A No. 13 Q Have you watched any deposition videotapes? 14 A No. 15 A Yes. 16 Q And your e-mails that were removed, do you know whether those e-mails were before or after litigation was filed on this case? 20 As a claims specialist for reserves; is that correct? 21 Correct. 22 A Yes. 23 Q Are you currently employed with the Auto Club? 24 A Yes. 25 Q Have you reviewed anything besides the file that I 26 A Correct. 9 A Yes. 10 A No. 11 Q Have you oloked at or reviewed anything else? 12 A No. 13 Q Have you provied any deposition videotapes? 14 A No. 15 Q Have you provied any deposition videotapes? 16 Q And wen did of the e-mails removed?	1	•	reporter will time up and after my deal		-	
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we will all assume that you've answered because to you nederstand the question. Is that fair? 16 A Yes. 17 Q Because I told you don't answer if you don't 18 A Yes. 19 Q We'll also assume that all of your questions and 20 your answers are accurate and truthful. Is that 21 fair? 22 A Yes. 23 Q Are you currently employed with the Auto Club? 24 A Yes. 25 Q Have you reviewed anything besides the file that I 1 have in front of me prior to your deposition 2 today? 3 A I read the CPS memos. 4 Q Your CPS memos or everyone's CPS memo? 5 A CPS memos back to about November of '99. 6 Q Not just the ones that dealt with your 27 involvement; is that correct? 28 A Correct. 29 Q Have you looked at or reviewed anything else? 30 Q Have you reviewed any deposition transcripts? 4 A No. 4 Correct. 5 Q Have you watched any deposition transcripts? 5 A Yes. 6 Q Not just the ones that dealt with your 28 A Correct. 9 Q Have you looked at or reviewed anything else? 10 A No. 11 Q Have you reviewed any deposition transcripts? 12 A We. 13 Q Have you watched any deposition videotapes? 14 A No. 15 Q Have you ment with anyone to prepare your 16 deposition testimony today? 17 A Wednesday. 18 A Yes. 19 A Yes. 19 A Yes. 20 A A fter. 21 Correct. 22 A Correct. 23 Q I st there and lof the e-mails removed? 24 A A fter. 25 Q Have you currently employed with the Auto Club? 26 A Yes. 27 Correct. 28 A Correct. 9 So if a reserve is going to be increased as a result of litigation they would communicate with you? 29 Were you communicating with the legal department by way of e-mail on any issue in this case that was removed from this file in anything other than reserves? 29 Were you provided any additional materials while you were meeting with Mr. O'Neill of Wednesday? 20 Q Were you provided any additional materials while you were meeting with Mr. O'Neill of Wednesday? 21 A No. 22 Q All right, When I deposed you the last time, you additional materials and the your reviewed your transcript of the deposition I took of you last year? 21 A No. 22 Q All right, W	1		have asked you, as well as your answers. Whenever	1:		
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been removed? 24 department involved you reviewing materials and		~	Has any of the materials that were in this file		•	said that your involvement on files in the reserve
25 A There is some communication with the legal 25 setting reserves so that the claims were properly	24	1	peen removed?	24		department involved you reviewing materials and
souring reserves so that the claims were properly	25	A	There is some communication with the legal		,	setting reserves so that the claims ware
	2000 A 100	With their		6. SS6250.		2

3 (Pages 6 to 9)

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Page 1	0		Page 12
1 reserved for future pay out?	1		that are owed that haven't been paid and the
2 A Correct.	2		reserves would increase in the future?
3 Q Is that what you still do?	3	Δ	Yes.
4 A Yes.	4	C	I asked you do you communicate that information to
5 Q You indicated that in the reserves department you	5	•	the insureds. And at the time that I asked you
6 would make recommendations to adjusters, but you	1 6		that before I believe your answer was, no, you
7 were not allowed to follow-up those	7		don't communicate with insureds?
8 recommendations as it related to payment of	8		Correct.
9 benefits if they were unpaid or underpaid and you	9		+
noticed them. Is that still true?	10	ر ا	And did you communicate with the insureds on this case?
11 A Would you repeat that?	111		No.
12 Q Sure.	12		
Do you recall that as part of	13	•	The state of the s
your job you would have communication regularly	14		believe there strike that.
with adjusters?	15		If you're increasing reserves
16 A Not regularly.	16		because you believe there would be an increase in
17 Q Well, by "regularly" for me, regularly what I'm	- 1		benefit pay out in the future, and that benefit
talking about is your regular intervals with	17		pay out doesn't occur, you don't reduce the
19 adjusters on files. You would review these files	18		reserves, do you?
20 every six months or every year on that type of	19		I might or I might not.
21 regular basis?	20	Q	
22 A Yes.	21		what should be paid as an hourly rate, and you
1 200	22		stop advising adjusters because you believe they
23 Q That's what I mean by regular. 24 A Okay.	23		were properly trained but they don't increase the
	24		payment to the insured, do you still leave the
25 Q I'm not saying you did it every day on the same	25		reserves where they were?
Page 11			Page 13
1 file.	1	Α	
2 When you would do that, you	2	Q	The state of the s
would review the file and you were checking for	3	A	
4 financial information as it would affect reserves,	4	TX.	are the state of the control of the
5 correct?	5		would probably leave it there for awhile to see if
6 A Correct.	6	Q	an increase was coming through.
7 Q And if you found something that was inaccurate,	1		In those anything others, it is all the second
i i i i i i i i i i i i i i i i i i i	1 7	Q	my man and the real contract of the contract o
8 you would communicate with the adjuster handling	7	Q	you not to that would prevent you from sending a
8 you would communicate with the adjuster handling	8	Y	you not to that would prevent you from sending a letter to the insureds advising them that the
9 you would communicate with the adjuster handling the file?	8 9	٧	you not to that would prevent you from sending a letter to the insureds advising them that the current rate the Auto Club pays for that level of
9 you would communicate with the adjuster handling the file? 10 A I'm not sure what you mean.	8 9 10		you not to that would prevent you from sending a letter to the insureds advising them that the current rate the Auto Club pays for that level of benefit is higher than what they're getting?
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4 (Pages 10 to 13)

purple file then you're saying? 16 A Yes. 17 A Correct. 18 Q Can you explain for me and the Judge why that's not in your file today? 20 MR. O'NEILL: Just so I'm 21 clear, when you're saying "why that's not in your file," you're talking about Exhibit 1? 22 MR. McKENNA: Why Exhibit 1 is not in her file. 16 A Yes. 17 Q And then there's information that's handwritten there. Is that your handwriting? 19 A Yes. 20 Q So you would have to have received medical records in order to be able to complete that portion? 21 A Not necessarily. 22 A Not necessarily. 23 Q Well, if it says management of the case and you're talking about a purse visits prescriptions.			
A DCCLMENT WAS MARKED AS DEPOSITION EXHIBIT NUMBER 1) BY MR. McKENNA: Which is a printout of an e-mail from - it says from Andrew Kurtinatis to you regarding George Williams on February 20th, to Mr. Kurtinatis at 2:10. So in other words this appears to indicate that yours was sent at 2:10 and he responded at 2:10. So in other words this appears to indicate that yours was sent at 2:10 and he responded at 2:10. So in other words this appears to indicate that yours was sent at 2:10 and he responded at 2:15. A No. 18 Q Are there any other documents like that that Mr. O'Neill removed from your file? 19 MR. O'NEILL: Let me object. Let me just object to what Counsel's implying hart this document was in her file and was removed and there's no foundation for that. Page 15 BY MR. McKENNA: Page 15 A O'Could you hand me that back, please. Can you look through your file then, main, for February 20th, 2002, and let me words can you show me the documentation that would support an increase in reserves occurred, in other words can you show me the documentation just prior to that or just subsequent to that date. A Whand date was that again? Perbruary 20th, 2002, and let me word can you show me the documentation in that would support an increase in reserves occurred, in other words can you show me the documentation just prior to that or just subsequent to that date. A Whand date was that again? Perbruary 20th, 2002, and let me word can you show me the documentation that would support and the mean that back, please. A Whand date was that again? Perbruary 20th, 2002, and let me have increase in reserves occurred, in other words can you show me the documentation that would support and the status. A Clay Counsel's end for how that the word and there's no foundation for that. Page 15 BY MR. McKENNA: Page 15 BY MR. McKENNA: A By MR. McKENNA: Page 15 BY MR. McKENNA: A Clay Counsel's end file alled a purple file. A Clay Counsel's end fil		Page 1	Page 16
2 DEPOSITION EXHIBIT NUMBER 1) 4 BY MR. McKENNA: 5 Q Mam, let me show you what's been marked as Exhibit Number 1. That's an e-mail from — it show on on February 20th, a trust institute that yours was sent at 2:10 and he responded at 2:15. And 12:15. And 12:15. And 13:15. And	1	A Yes.	1 THE WITNESS: I pover and
DEPOSITION EXHIBIT NUMBER 1) BY MR. McKENNA: BY MR. McKENNA: Sequential Number 1. That's an e-mail from — it says from Andrew Kurtinatis to you regarding George Williams on February 20th at 2:15. And there's below that is a printout of an e-mail sent from you on February 20th, to Mr. Kurtinatis at 2:10. So in other words this appears to indicate that yours was sent at 2:10 and he responded at 2:15. A Okay. If a bean marked as Exhibit Number 1. That's not in your file? A No. If a bean marked as Exhibit Number 1. That's not in your file? MR. ONFILL: Let me object. Let me just object to what Counsel is implying here. Page 15 BY MR. McKENNA: A Okay. That's not in your file? A What date was that again? A Chay. That's not in your file? A What date was that again? A Chay. That's not in her file and was removed and there's no foundation for that. Page 15 BY MR. McKENNA: Page 15 BY MR. McKENNA: Page 15 BY MR. McKENNA: A Chay. That's not in her file and was removed and there's no foundation for that. Page 15 BY MR. McKENNA: Page 15 BY MR. McKENNA: Page 15 A Chay you find the -you said this is a status. That's a report that was prepared by you just prior to Exhibit Number 2? Can you find the -you said this is a status. That's a report that Was prepared by you just prior to Exhibit Number 2? A Chay. It is a defined two was the mide that would be in there that werent part of the purple file. Year of the file that you hand me that back, please. Can you fold the thack, please. Can you find the -you and the words can you show me the documentation that would support an increase in reserves? A Chay. This is the status. A Chay. That's a report that level a marked as Exhibit Number 2 and there's no foundation for that. Year of the file for what you did at AAA, it's from you file. That is an e-mail that wouldn't be part of the purple file. A Page 17 A Yes. A Chay. If A Document w	2	(A DOCUMENT WAS MARKED AS	2 copies of the e-mails I sent
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5 (Pages 14 to 17)

CATICITY	a Reupath
Page 1	Page 20
not that information was accurate?	says "Current Medical Reports Attached" there's no
2 A Based on the CPS memos.	box checked?
3 Q So you're relying on the information provided on	3 A Okay.
4 the CPS screens?	4 Q Is that correct?
5 A If I had medical reports I would have reviewed	5 A Correct.
6 them, but I may not have necessarily had them.	6 O If you had received at 11 1
7 Q Assuming you have them you would rely on them, but	check yes to that box?
m addition you would look at CPS screens and rely	8 A I probably just wrote on there.
9 on the CPS screens?	9 Did I write on there current
10 A Yes.	Did I write on mere current
11 Q Is it part of your job to rely on CPS screens?	madical reports, is that what you're saying?
12 A Yes.	There are now much says Current Memcal
13 Q The information that is contained on the CPS	1 11010 another little check
screens relative to claims handling, is that	mark ook there that says yes and it's inchecked
something that is a fundamental part of your job?	I don't diffic I doed to doe the box. I first wrote
16 A What do you mean, the information as far as claim	i all moral report attachen.
17 handling?	The state of the call day and the life of the state of th
18 Q For example if the claims adjuster makes a	Tou got one right dicte.
decision to pay or to deny a benefit or the rate	below that is beliefly baid
at which they pay benefits, is that the type of	19 to date all" and this is cut off, "claimants?"
information that you typically rely upon in doing	1 100.
22 your job?	21 Q And then it has an amount?
23 A Yes.	22 A Yes.
24 Q Is that a fundamental part of your job in looking	23 Q "Annual Cost Projections From Date Of This
25 at the CPS screens and relying on them?	Report," and then you wrote on this one. "3 years"
or o soloons and lerying on mem:	25 is that out?
Page 19	Page 21
1 A Yes.	, in the second
2 Q So that information put on the CPS screens in	1 A "Three years at."
order for you to do your job would have to be	2 Q "Three years at."
4 accurate?	So you're predicting three
5 A Yes.	4 years of payments at just under \$60,000.00?
6 Q Truthful?	5 A Correct.
7 A Yes.	6 Q What is the basis if the \$60,000.00 payment?
8 Q Have you ever had discussions with adjusters that	7 A We were projecting 4,000 for medical, and then the
the information that they were providing to you	other category we were projecting 55,250. And
through the CPS screens was not accurate?	under other, that could be nursing care, equipment
11 A No.	or home modifications.
	11 Q At the time that you were preparing this document
c - y man a diseasoron with all adjusted of	where you say 4000 medical, that's talking about
3 THE THEOLITICAL MICA MCIC	13 medical supplies or equipment?
The series of the creation of	14 A Doctor visits, X-rays, anything of that type.
or occasional I will call and ask for additional	15 Q Not medical equipment?
16 information.	16 A No.
17 Q Is there a procedure, a policy that the Auto Club	17 Q Not medical does it include prescriptions?
has as to what information is to be put into CPS	18 A It includes prescriptions.
memos by the adjusters?	19 Q All right. The other in the category on the back
20 A Not that I know of.	of the document would include attendant care?
21 Q Have you been trained on the type of information	21 A Yes.
or the procedure to put the type of information on	22 Q Now, at the time that this was prepared, are you
the CPS screens?	aware of anything other than attendant care that
24 A No.	mat the training of the training training the training tr
	24 was being provided that would exceed \$4000.00 in
25 Q In the report dated 9-11-2001, at the bottom it	was being provided that would exceed \$4000.00 in the year?

6 (Pages 18 to 21)

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	Page 2	2		Page 24
1			L A	A Correct.
2	U.VCT. Cult data of Sundanding is unat this \$33,230,00		2 (You are also making a decision as to whether or
3	and the par in here would be printarily to	3	3	not his treatment and benefits will be for his
4	and the different set vice:	4	Ļ	lifetime?
5	1 1 101	9	5 A	A Correct.
6	at the mont of the document simply doing in	e 6	5 (And then you were trying to project the costs of
7	man, you to maniphed 59,250 by 5 to come up	7	7	those benefits over his lifetime, in this case on
8		8	}	a three year basis?
9	A Correct.	9	Δ	A Correct.
110	Ville of the proof of, in other words you've	10) (You did not change anything with respect to his
11	and the cital times 5 and mais your	13		life expectancy on Exhibit Number 3?
12	arricult.	12	2 A	No.
13		13	3 Q	But there is nowhere on Exhibit Number 3 that
14	totals of the	14		would indicate what you believed his life
15		15	5	expectancy to be?
16	1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1	16	A	I'm not sure what you're asking me.
117	Q - you've got the same amount that you had at the	17	' Q	On this document you haven't written down his
18	top that says, "All Claimants Allowable Expense?"	18		current age?
19		19	A	No, his birth date is up there.
20	C	20	Q	But you haven't written down what you expect his
21	The state and wable expense, if there half	21		life expectancy to be for purposes of reserves?
22	been multiple people injured on this loss, that	22	Α	At this point it was three years.
23	top figure would include all the medical expenses	23	Q	So you are saying from that point in 2001, you
24 25	paid for everyone involved in the loss.	24		expected him to live three years?
123	Q And this is just for Mr. Williams?	25	A	
	Page 23			Page 25
1	A Yes.	1	Q	
2	Q On the top of the form it has "Injury." And	2		I don't know what that means.
3	you've written in there, actually you've typed in	3		How is it that you determine that he would live
4	there, "skull fracture, pelvic fracture, GI	4	•	three years?
5	bleed?"	5	Α	The MRR which is our calculation tool has a life
6	A Correct.	6		expectancy built into it and that projected three
7	Q Then it has "Lifetime Treatment" and you have	7		years?
8	"Yes?"	8		What is your MRR?
9	A Yes.	9	À	It's medical reserve review.
10	Q "Shortened Life Expectancy," you indicated "No?"	10		Is that a program?
11	A Correct.	11	A	Yes.
12	Q So you're doing an actuarial analysis on the	12	Q	Do you know what the basis of the medical reserve
13	amount of money to be paid into the future, also	13	:	review program calculation is for Mr. Williams'
14	doing one based on his current life expectancy?	14	:	age?
15	MR. O'NEILL: Objection vague.	15	A	No.
16	You're asking the Witness to speculate, no	16	Q	Have you heard the term rated age?
17	foundation.	17		No.
18	Go ahead.	18	Q	"Describe Claimant's Present Condition and Level
19 20	THE WITNESS: What exactly do	19	C	of Care Being Provided," is another box for
	you mean by "actuarial?"	20	i	nformation that was fill out by you on this form:
	BY MR. McKENNA:	21	1	s that correct?
23	Q You're making a decision as it relates to what the			Correct.
23 24	reserves will be, what you need for reserves, and		Q	At nowhere on there does it indicate what is being
	you're basing that on what you expect his life	24	p	aid hourly; is that correct?
25	eynectancy to he'	~ -		
25	expectancy to be?	25	A	That's correct.

7 (Pages 22 to 25)

	Page 2	6		Page 28
2	Q Do you review the information to make sure that	:		Q Well, are you aware of there having been issues in
3	it's accurate that's provided to you? A What do you mean review it to make sure it's	2		the past where you were required to provide
4	accurate?			additional information to the MCCA to justify your
5	Q Well, you said that you have CPS memos?	4		reserves?
6	A Yes.	5		A I have not had to supply additional information to
7	Q Do you ever review the file materials to see that	7		justify their reserves. Usually if they ask for
8	there is, in fact, reasonable medical proof to	8		additional information it is to support payments. Q All right, I'm sorry.
9	substantiate the need for these payments?	9		A Reimbursement tool.
10	MR. O'NEILL: Let me just ask	10		There's two things that go to MCCA.
11	for a clarification.	111		You have to send them a
12	Are you distinguishing file	12	2	reserve for future projected payments, correct?
13	materials from CPS notes?	13	} A	A Correct.
14	MR. McKENNA: I'm	14	. (And there's also a report that goes for
15	distinguishing file materials as being anything in	15	5	reimbursement of payments that have already been
16	the AAA file.	16	;	made?
17 18	THE WITNESS: I never look at	17	' A	A Right.
1	the AAA file. BY MR. McKENNA:	18	•	O Do you keep in your file when you get medical
		19		reports or information from a previous report, do
21	Q Do you ever ask that they provide you additional information from the file?	20		you keep that information in the file that you
	A Every six months when we do the status we ask them	21		have, your reserve file?
23	to submit any medical reports that they have.	22	Α	We keep it only it's just a holding place there
24 (So a medical report would include a prescription	24		until the next status is done and then it's sent
25	for attendant care?	25		to MCCA and we do not keep a copy of it.
		123		Would you agree that the reporting of sixteen
4	Page 27			Page 29
	A Yes.	1		hours of aide care per day if there was a
2 (So you would have that information available to	2		twenty-four hour prescription would be inaccurate?
	you from six months previous? A If they sent it to me.	3		Yes.
	If they send it to you?	4	Q	Does the Auto Club routinely pay less than what
	Yes.	5		the prescription calls for?
7 (7		I don't believe so.
8	calls for twenty-four hours of attendant care, you	8	Ų	When you have information that there's twenty-four
9	would have that in your file and use that to	9		hours of aide care and it's being paid at sixteen hours, would you increase the reserves based on
10	determine reserves?	10		the additional eight hours?
11 A	Yes. It would be in my file and then I would send	11	A	Not if they weren't paying it.
12	it to MCCA with the status.	12	Ō	So even if you had a prescription as part of the
13 Q	is a second and the second field	13	`	medical records that you had available to you that
14	prescription and you would base the dollar amounts	14		calls for twenty-four hours of aide care and it
15	for your reserves on that hourly amount?	15		was only being paid at sixteen hours, you still
16 A		16		wouldn't increase your reserves?
17 Q	The same provide that to the MCCA 30 1	17	A	No.
18	that they could see what your reserves were based	18	Q	Would you communicate to the adjuster and ask why
19	on?	19		they're paying less than the prescription?
20 A 21 O		20	A	I would probably refer that to a manager.
21 Q 22	in a state of the	21	Q	Would you refer that to a manager by way of a CPS
23	reimbursed the Auto Club doors to see the	22		memo?
24 A	reimbursed, the Auto Club doesn't get reimbursed?		A	No, I usually either call the manager or send an e-mail.
				n
25	I don't handle the reimbursement portion, but probably if there was an issue.	24 25	0	e-mail. So there are other e-mails that you regularly or

8 (Pages 26 to 29)

0/110111	a reapacii
Page 3	Page 32
routinely take out other than dealing with the legal department?	providing twenty-four hour care but only being
2 legal department? 3 A Yes.	paid for sixteen in your September 11th, 2001
1 2 2 3 3 5	3 report?
4 Q Those e-mails you destroy? 5 A Yes.	4 A I don't know.
11 100.	5 Q Well, you would have reviewed the medical records
The of the way, no one at the Auto Chin has nevi	er 6 and reports, right?
I will jou to not desiroy c-mails dealing with	7 A Right.
8 issues of underpayment or nonpayment of benefits, 9 have they?	
10 A No.	Mr. Williams was in following his accident?
	10 A No, not particularly right following the accident,
11 Q All right. If we switch to Exhibit Number 2, this is approximately five or six months later than	because I never read the file that far back.
Exhibit Number 3. The date on this is 2-20-02.	12 Q I'm sorry, I didn't mean to be that specific as to
14 It's the same type of a	the day following the accident.
document, same type of report, correct?	14 A Okay.
16 A Correct.	15 Q From the time of his accident until the time of
17 Q The information on there also contains your	The state of the s
18 handwriting?	i i i i i i i i i i i i i i i i i i i
19 A Yes.	1 2 Jour Joo daties to Miow Midt;
20 Q You didn't check off the box on this one, again	19 A It's whatever information was in the file I would 20 be aware.
you wrote no reports?	21 Q So the information in the file that Mr. Williams
22 A Okay.	22 had sustained a catastrophic injury, was unable to
23 Q So that means there's nothing attached?	be left alone, couldn't drive, couldn't walk
24 A Right.	without assistance, had a traumatic brain injury,
25 Q So Exhibit Number 2, has no reports attached.	25 that information would have been available to you?
Page 31	
1	Page 33
1 mic one dolle	1 A Yes.
2 five or six months earlier had attached medical reports?	2 Q And that typically is the type a description of
4 A Correct.	the type of injury that would require twenty-four
5 Q When you don't attach medical reports is that an	4 hour care, isn't it?
6 indication that there was nothing new?	5 MR. O'NEILL: Objection lack
7 A Not necessarily.	6 of foundation.
8 Q Just that you haven't attached any?	7 THE WITNESS: Not always.
9 A I just didn't have anything to send them.	
10 Q If you wanted medical reports you would	and the make an assessment, don't you
communicate that to the adjuster?	in order to do your job correctly as to whether or
12 A Yes.	not this is a person that's going to need a level of care for the rest of their life, don't you?
13 Q You would use CPS memos for that or e-mails?	13 MR. O'NEILL: Objection.
14 A I would put that right in my CPS memos when I do	14 There's no foundation that this Witness is capable
the status.	of making a medical assessment. You're asking her
16 Q In February of 2002 under "Describe claimants	to speculate.
condition and level of care being provided." It	17 Go ahead.
says, "The family provides twenty-four hour care."	18 THE WITNESS: I would just be
Do you see that?	19 estimating.
20 A Yes.	20 BY MR. McKENNA:
21 Q All right. And in Exhibit Number 3 from five	21 Q I understand that.
22 months earlier, it says sixteen hours?	That's part of your job to do
23 A Correct.	23 that?
24 Q Is it your understanding based on your review of the medical reports that the family was in fact	24 A Right.
25 the medical reports that the family was, in fact,	25 Q In fact, your estimate is and when you fill out
	The second secon

9 (Pages 30 to 33)

	Page 3	4	
1	_	2	Page 36
2	and to the this is incline:		
3		2	e
4	e a se to maioated incline. So you have leceived	3	ger and the despotal job.
5	tom at a summe nom are Auto Chip to be	4	7
6	more to make these determinations on these	5	may suppose you with the training they have
7		6	5. Total your review
8	Charlin Harrannia Caperience.	7	or modical information and reports and CPS screens
9	the state of the same state of	8	to what and person currently is getting and
10	The Flate Class that as you to make	9	in field in the fatare so that you can set a
111	areae assessments:	10	
12		11	THE OFFICE OFFICE INCK
1	the most wide assessments are passed along to the	12	or roundation.
13	The state of the Change Association and life	•	Co anotac.
1	101) OII WIOIII.	14	THE WITHESS. Well, Welle
15		15	projecting as best we can what we anticipate is
16	C Journa a porson that the Auto Club it tisks to	16	going to be paid in the future.
17	and appearance of whether someone needs a	17	The street of the Could you allower
18	and the of contents.	18	my question.
19	1 100	19	THE WITTESS. Would you repeat
20	Journal of the title to child steel as part ()	20	the question, please?
21	Jest Jest addition to dototilline what level and what	21	MR. McKENNA: Read it back to
22	and or offer or one mey are entremely in need of	22	her.
23	and will need in the future?	23	(QUESTION READ BACK AS FOLLOWS:
24	MR. O'NEILL: Objection lack	24	"And they expect you with the
25	of foundation.	25	training they have given you
	Page 35		Page 37
1	THE WITNESS: No, I don't make	1	-
2	those decisions.	2	to make assessments based on
3	BY MR. McKENNA:	3	your review of medical
4	Q I'm not saying you made the decision. You make an	4	information and reports and CPS screens as to what this
5	assessment. The word I used was assessment.	5	person currently is nothing
6	You report based on your	6	person currently is getting and will need in the future
7	assessment of need currently and in the future?	7	
8	MR. O'NEILL: Objection lack	8	so that you can set a reserve?")
9	of foundation. There's no foundation that this	9	
10	Witness has any expertise to make a medical	10	THE WITNESS: Well, I'm not
11	assessment as to medical needs.	11	comfortable with the question. It makes me think
12	Subject to that go ahead.	12	you're saying that I'm making the assessment of their medical condition.
13	BY MR. McKENNA:	13	BY MR. McKENNA:
14	Q Ma'am, so that the record's clear, I'm not	14	
15	suggesting you're making a medical assessment of	15	Q Ma'am, I've told you pointblank I'm not asking you that.
16	anything.	16	A Okav.
17	You're not a medical doctor,	17	F2
18	correct?	18	Q You are as part of your job expected at the Auto
	A Correct.	19	Club, entrusted by them to review medical
	Q But you have been trained by the Auto Club to make		information, correct?
20	assessments of medical information that's	20	A Correct.
	or modical infolliation that s	21	Q You're expected to review reports, correct?
21			
21 22	available in a file either by a report or records,	22	A Correct.
21 22 23	available in a file either by a report or records, correct?	23	Q You are expected to review those reports, the
21 22 23 24	available in a file either by a report or records, correct? A No, there's been no special training.		

10 (Pages 34 to 37)

Page 38	
	Page 40
1 on that, correct?	When you see a record that
2 A Correct.	indicates there's twenty-four hours, would you
3 Q Then information that you review has to be	increase the twenty-four hours without seeing a
4 accurate to do your job?	prescription, in other words would you increase
5 A Correct.	your reserves reflecting twenty-four hours without
6 Q When you see that there's information that's	seeing a prescription?
maccurate, it will make your job inaccurate?	proceription.
8 A Correct.	in or o that they had a lepoil
9 Q When you find inaccurate information, you 9	twenty-four hours I would, yes.
10 communicate that either to the adjuster or to a	,
11 manager?	2 22 20 Jou consider the CL 3 screens then to be
12 A Correct.	
13 Q So that you can set accurate reserves?	
14 A Correct.	
15 Q Are you familiar with the one year back rule of 15	what is some paid:
	THE GIRENE. Cojection vague.
117 4 37	GO unoud.
130 0 1 1	TILL WITH COO. WELL, WHAT UD
1 9 Trail Tribon transfer and the second	y proor.
1 2 (A) A 14 41 1	=
21 Q All right. Well, would you agree that there's an	C J and obtained that under the Indian will be
1 The region would you agree that there's an 121	and under the policy there has to be reasonable
1 22 men at one report mey te only being bain	proofs submitted in order for a benefit to be
1 The state of the	r
1 Para (worth) four flours for the Same level of care/ 1 /4	11 00110011
25 A I believe Doctor Dobbel (sp) decreased the 25	Q So when you read in a CPS screen that they're
Page 39	Page 41
1 homecare for awhile and that's why it was being 1	paying a certain rate or a certain amount of
2 paid at sixteen hours.	hours do you consider that to be
3 Q Do you have a report from Doctor Dobbel decreasing 3	hours, do you consider that to be reasonable proof
4 it?	for purposes of you doing your job? A Yes.
5 A I thought I read it in the CPS memos. 5	
6 Q Do you have a report from Doctor Dobbel decreasing 6	a were reactivities at our
7 it?	September 1st, 2001, what was that?
8 A Do I have is0	A I don't know.
9 O Vec	Q How could you set a reserve if you didn't know
10 1 35	what the hourly rate was?
11 O Dovern house in the control of	A I probably knew it, but it's not on this form
12 A On this and 37	anywhere.
	Q Do you have the information anywhere in your file
the second to make assumptions on 113	that would indicate at the time you did the report
14	of September 11, 2001, what the hourly rate was
16 de vour ich?	that was being paid?
1 10	A No.
THE OTTELL. Objection vague,	Q How would the MCCA know what the hourly rate was
18 compound.	for your projected reserves if you didn't indicate
THE WITNESS: No, I make 19	it?
20 assumptions.	A I don't know.
21 BY MR. McKENNA:	Q The report marked as Exhibit Number 2 has I'm
22 Q And if you make assumptions that are wrong it 22	sorry, and the date on that is February 2002,
affects your job, doesn't it?	correct?
24 A Yes.	A Correct.
25 Q If you make assumptions strike that. 25	Q All right. The report there has an increase where

11 (Pages 38 to 41)

a difference of about \$40,000.00? A Because additional payments have been made and the reserve has gone down. Okay. So from September 11, 2001, to February 20, 24 Q Okay. So from September 11, 2001, to February 20, 24 Q Correct.		a keupatii
it says there's twenty-four hours being paid relative to the prior report, correct? A Correct. Q And it says it's being paid at 59.50 per hour? A Correct. Q All right. If it's being currently paid at 59.50 per hour rate? MR. O'NEILL: Objection. There's no foundation that she's determined any rates. MR. O'NEILL: Objection. There's no foundation that she's determined any rates. Subject to that go ahead. THE WITNESS: I probably read it in CPS. BY MR. McKENNA: C Q I shakibit Number 1, it says, "Hi, Andy." Do you know Mr. Kurtinaitis? A Yes. Q "ust an foi-" that would be for your information? A Yes. Q "" to let you know we are increasing the reserves are "hat means you? A Yes. Q Q" to let you know we are increasing the reserves are "September of 2000? A Yes. Q Q" by \$341,000" That's what you wrote? Page 43 A Yes. Q Okay. So what was the reserves set at in September of 2001? A We had \$130,125.00 in the net reserve on the date this was done. Q And what was the reserve set in February of 2002? A We had \$130,125.00 in the net reserve on the date this was done. Q And what was the reserve set in February of 2002? A We had \$130,125.00 in the net reserve on the date this was done. Q All right. And then if we can flip over to Exhibit Number 2 on the back, you have the reserve set here - where's that number? With the increase. Q No. Reserve here 1991 is 95,173, correct? With the increase. Q Why are cheen cumbers different from Exhibit 2 to Exhibit 3, where on Exhibit 3 you have it set at 131,125 yet on Exhibit 3 you have it set at 131,125 yet on Exhibit 3 you have it set at 131,125 yet on Exhibit 3 you have it set at 131,125 yet on Exhibit 3 you have it set at 131,125 yet on Exhibit 3 you have it set at 131,125 yet on Exhibit 3 you have it set at 131,125 yet on Exhibit 3 you have it set at 131,125 yet on Exhibit 3 you have it set at 131,125 yet on Exhibit 3 you have it set at 131,125 yet on Exhibit 3 you have it set at 131,125 yet on Exhibit 3 you have it set at 131,125 yet on Exhibit 3 you have it set at 131,1		Page 44
relative to the prior report, correct? A Correct. A Correct. Q And it says it's being paid at \$9.50 per hour? A Correct. Q All right. If it's being currently paid at \$9.50 per hour rate? MR. O'NEILL: Objection. There's no foundation that she's determined any rates. Subject to that go ahead. 11 THE WITNESS: I probably read 12 it in CPS. B YMR. McKENNA: 13 Q In Exhibit Number 1, it says, "Hi, Andy." 14 it in CPS. B YMR. McKENNA: 15 Q In Exhibit Number 1, it says, "Hi, Andy." 17 Do you know Mr. Kurtinaitis? 18 A Yes. 19 Q "Just an fyi" that would be for your information? 21 A Yes. 22 Q " to let you know we are increasing the reserves" that means you? 24 A Yes. 25 Q " by \$341,000" That's what you wrote? Page 43 1 A Yes. 25 Q Okay. So what was the reserves set at in September of 2001? A I we had \$130,125.00 in the net reserve on the date this was done. Q All right. And then if we can flip over to Exhibit Number 2 on the back, you have the reserve set have? A I wind the right of the prior of the	it says there's twenty-four hours being paid	
3 A Correct. 4 Q And it says it's being paid at \$9.50 per hour? 5 A Correct. 6 Q All fright. If it's being currently paid at \$9.50 per hour rate? 9 MR. O'NEILL: Objection. 10 There's no foundation that she's determined any rates. 12 MR. O'NEILL: Objection. 13 THE WITNESS: I probably read it in CPS. 14 it in CPS. 15 BY MR. McKENNA: 16 Q In Exhibit Number I, it says, "Hi, Andy." 17 Do you know Mr. Kurtinaitis? 18 A Yes. 19 Q "Just an fyi—" that would be for your information? 21 A Yes. 22 Q "—to let you know we are increasing the reserves 23 —" that means you? 23 A " to let you know we are increasing the reserves 25 Q Ckay. So what was the reserves set at in September of 2001? 4 A We had \$130,125.00 in the net reserve on the date this was done. 6 Q And what was the reserve set in February of 2002? A It was \$95,173.00 and we increased it by \$35,31,077.00 to a total of \$436,250.00. 9 Q Well, looking at the back of Exhibit Number 3, you said the reserve was et ar— where's that number? 14 A Correct. 15 Q And the annual projected attendant care payments of \$55,000.00 in September would be for twelve months? 16 Q And what was the reserve set in February of 2002? 17 A Ves. 18 Q May the sea of the proper of 2001? 19 A Well, looking at the back of Exhibit Number 3, you said the reserve was et ar— where's that number? 20 Q All right, And then if we can flip over to Exhibit Number 2 on the back, you have the reserve set as each with the increase. 20 Q Why are chese numbers different from Exhibit 2 to Exhibit 3, where on Exhibit 3 you have it set at 131,125 yet on Exhibit 3 you have it set at 211,125 yet on Exhibit 3 you have it set at 211,125 yet on Exhibit 3 you have it set at 211,125 yet on Exhibit 3 you have it set at 211,125 yet on Exhibit 3 you have it set at 211,125 yet on Exhibit 3 you have it set at 211,125 yet on Exhibit 3 you have it set at 211,125 yet on Exhibit 3 you have it set at 211,125 yet on Exhibit 3 you have it set at 211,125 yet on Exhibit 3 you have it set at 211,125 yet on Exhibit 3 you have it set at	relative to the prior report, correct?	
4 A Correct. 5 A Correct. 6 Q All right. If it's being currently paid at \$9.50 per hour? 7 per hour, how did you determine the \$9.50 per hour? 8 rate? 9 MR. O'NEILL: Objection. 10 There's no foundation that she's determined any rates. 11 THE WITNESS: I probably read it in CPS. 12 Subject to that go ahead. 12 THE WITNESS: I probably read it in CPS. 13 BY MR. McKENNA: 14 It or CPS. 15 BY MR. McKENNA: 16 Q In Exhibit Number 1, it says, "Hi, Andy." 17 Do you know Mr. Kurtinaitis? 18 A Yes. 19 Q "Just an fyi" that would be for your information? 21 A Yes. 22 Q " to let you know we are increasing the reserves" that means you? 24 A Yes. 25 Q Okay. So what was the reserves set at in September of 2001? 26 And there would have to be some basis for that in the file, wouldn't here? 27 What do you mean "some basis?" 28 What do you mean "some basis?" 29 Well, wouldn't you have to have something that were made. 21 Q Os it should support payments of \$40,000.00? 21 A Yes. 22 Q " to let you know we are increasing the reserves 23" that means you? 24 A Yes. 25 Q Okay. So what was the reserves set at in September of 2001? 24 A Yes. 25 Q Okay. So what was the reserves set in February of 2002? 26 A It was \$95,173.00 and we increased it by \$3541,077.00 to a total of \$436,250.00. 27 Q All right. And then if we can flip over to Exhibit Number 2 on the back, you have the reserve set here where's that number? 28 A With the increase. 29 Q Nad what was the reserve set in February of 2002? 30 Q Well, looking at the back of Exhibit Number 3, you said the reserve was set at	3 A Correct.	1
5 A Correct. 6 Q All right. If it's being currently paid at \$9.50 per hour, how did you determine the \$9.50 per hour rate? 9 MR. O'NEILL: Objection. 10 There's no foundation that she's determined any rates. 11 Subject to that go ahead. 12 Subject to that go ahead. 13 THE WITNESS: I probably read it in CPS. 15 BY MR. McKENNA: 16 Q In Exhibit Number 1, it says, "Hi, Andy." 17 Do you know Mr. Kurtinaitis? 18 A Yes. 19 Q "Just an fyi —" that would be for your information? 20 "—to let you know we are increasing the reserves as —" that means you? 21 A Yes. 22 Q "—to let you know we are increasing the reserves as —" that means you? 23 —" that means you? 24 A Yes. 25 Q Okay. So what was the reserves set at in September of 2001? 26 A We had \$130,125.00 in the net reserve on the date this was done. 27 Q All right. And then if we can flip over to this was done. 28 Q Well, looking at the back of Exhibit Number 3, you said the reserve was set at —" A \$130,125.00. 29 Q Well, looking at the back of Exhibit Number 3, you said the reserve was set at number? 20 A Correct. 21 Q All right. And then if we can flip over to Exhibit 1, where on Exhibit 3 you have it set at 131,125 yet on Exhibit 3 you have it set at 201 31,125 yet on Exhibit 3 you have it set at 201 31,125 yet on Exhibit 3 you have it set at 201 31,125 yet on Exhibit 3 you have it set at 201 31,125 yet on Exhibit 3 you have it set at 201 31,125 yet on Exhibit 3 you have it set at 201 31,125 yet on Exhibit 3 you have it set at 201 31,125 yet on Exhibit 3 you have it set at 201 31,125 yet on Exhibit 3 you have it set at 201 31,125 yet on Exhibit 3 you have it set at 201 31,125 yet on Exhibit 3 you have it set at 201 31,125 yet on Exhibit 3 you have it set at 201 31,125 yet on Exhibit 3 you have it set at 201 31,125 yet on Exhibit 3 you have it set at 201 31,125 yet on Exhibit 3 you have it set at 201 31,125 yet on Exhibit 3 you have it set at 201 31,125 yet on Exhibit 3 you have it set at 201 31,125 yet on Exhibit 3 you have it set at 201 31,125 yet on Exhibit 3 you hav	4 Q And it says it's being paid at \$9.50 per hour?	
September of 2001? September of 2001?	5 A Correct.	
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j and judici	13 five year period, you were paying 59.250?
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5 give us the annual projection that you came up 6 with?	
7 A It would give you the annual increase.	6 A Correct.
8 Q I'm sorry, approximately a \$60,000.00 increase	7 Q And then here there's approximately a \$50,000.00
9 A Yes.	
10 Q And if we continue in your e-mail, that's due	9 A Correct.
homecare rate increase?	
12 A Yes.	1
13 Q So you're projecting a \$60,000.00 a year incre	ase about \$2500.00 per month increase in payments? 13 A I'm sorry, would you say that again?
14 in homecare?	i all a said for say that again!
15 A No, wait. No, I didn't.	14 Q If you were to breakdown a \$30,000.00 change annually to a monthly change, it would be
The projection increased from	16 approximately a \$2500 00
55 to 50 for the other category to 83,250 to this	17 A Vec correct
1 2 Ma'am, I'm just dealing with this e-mail that of	oes 18 Q And if that was primarily for attendant care,
to Mr. Kurtinaitis that says we've increased	19 Would you be able to ask the marge as
reserves. That means there's an increase in wha	(I / () Change and book out a manual and C it is
you're projecting the payments by the Auto Clul	that was being paid in September of 2001?
instruction of our occurrent of the highled to be.	22 A Probably.
1	23 Q And you just do the reverse math and back that
i construction of the second of the control of the second	of 24 out?
what was done in September by 341,000, correct	t? 25 A Yes.
Page	47 Page 49
1 A No. That figure	1 Q Okay. Did you recommend a rate increase for the
2 MR. O'NEILL: No, you answered	2 hourly attendant care that was being paid to
his question. He can follow-up.	3 Mr. Williams' family?
4 BY MR. McKENNA:	4 A I don't remember.
5 Q The \$341,000.00 figure that you've indicated to Mr. Kurtingitis is an increase in an increase in	5 Q If you did that, that would have been in an e-mail
and the state of t	6 as well?
outline that you expect to be paid out, correct?	7 A Yes.
	8 Q And, of course, you destroyed those?
2 112 11 11 11 11 11 11 11 11 11 11 11 1	9 A Yes.
wasn't for benefits that were expected to be paid out?	10 Q And the same thing we had talked about in your
	other deposition, when you send off these e-mails
12 A The 341,000 is the amount that I need to bring th reserve up to the 436,250. The reserve could have	and the adjuster doesn't take you up on your
been low at the last filing due to additional	suggestion, you have no way of following through
payments.	and enforcing an increase, do you?
16 Q Well, can you find on the last filing in September	15 A No.
of 2001, what your reserve amount was set at, that	i i i i i i i i i i i i i i i i i i i
should be on Exhibit Number 3?	i i i i i i i i i i i i i i i i i i i
19 A Okay. The projections were 177,750. And the	and Journal Internation by 6-mail
reserve was set at 130,125, so the reserve was	that would be destroyed and not kept as a record anywhere?
already low. So we would need to bring it up to	21 A Correct.
this figure for my new projections, we would need	
to make-up that shortage plus any additional	23 information that in the file and the
payments that were made between this time and thi	in the fire, why is that kept?
time.	
	MR. O'NEILL: Objection. 25 You're asking her to speculate.

13 (Pages 46 to 49)

Cyliciii	-
Page	50 Page 52
Go ahead.	of foundation. You're asking her to speculate.
THE WITNESS: The medical	THE WITNESS: I don't.
3 reports that they send to us?	3 BY MR. McKENNA:
4 BY MR. McKENNA: 5 O No. The documents that you have in front of our	4 Q Where would you get the information on the hourly
The decaments that you have in holl of vo	ou, 5 rates, from MMU?
anose are records that you keep in your me?	6 A Currently they put out a Plante Moran Survey and
1 100.	7 I'm not really sure who headed that up.
8 Q You've been told to keep those, correct? 9 A Yes.	8 Q Well, if you're talking about a Plante Moran
1 200	9 Survey that's something that was done
	he 10 ago?
policy or the procedure for your job is to keep these types of records?	11 A Correct.
13 A Yes.	12 Q That would be old information?
1 2 2 2 2 2 2 2 2 2 2 2 2 2 2 2 2 2 2 2	13 A I believe they updated it.
14 Q Why have they told you to destroy e-mails? MR. O'NEILL: Objection lack	14 Q The Plante Moran information has been updated?
of foundation that she's been told that.	15 A I believe in 2004.
17 Subject to that, go ahead.	16 Q Well, now we're talking it's two years old?
18 THE WITNESS: That I haven't.	17 A Yes.
19 BY MR. McKENNA:	18 Q You wouldn't want to rely on two year old
20 Q Why have they told you not to destroy e-mails, in	19 information to pay claims, would you? MR. O'NEILL: Objection
21 other words?	
22 A They haven't addressed it either way.	21 You're asking her to speculate, this is not her 22 job.
23 Q Okay. But that's something that would be	23 BY MR. McKENNA:
24 strike that.	24 Q You wouldn't want to rely on two year old
You've been doing this job for	25 information to set reserves, would you?
	and interest to set reserves, would you?
Page 5	rage 33
1 how long?	1 A Well, I reserve based on what they're paying, so
1 how long? 2 A Nine years.	1 A Well, I reserve based on what they're paying, so 2 it wouldn't be up to me to even keep up with the
 how long? A Nine years. Q And in that nine years that you've been doing 	1 A Well, I reserve based on what they're paying, so 2 it wouldn't be up to me to even keep up with the 3 rates anymore.
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14 (Pages 50 to 53)

	Page 5	Page 56
1 2	files other than this one and Bearden, correct? A Correct.	1 Q Did you ever participate in any interventions?
3	Q And in projecting reserves for catastrophically	2 A Yes. 3 O And it's my understanding that the Auto Club have
4	injured claimants that are traumatically brain	the first in the standing that the Auto Chip has
5	damaged and are institutionalized, are the	 done at least three interventions in – well, you've been there twelve years?
6	payments in the reserves on institutionalized	6 A Nine years.
7	patients or insureds higher than a file like	7 O Nine years So you would have started healt in
8	Mr. Williams that's getting homecare from family	y 8 19
9	members?	9 A September '97.
1	A Usually.	10 Q '97. The first intervention was done after you
11	Q And it costs the Auto Club less money as far as	started with the Auto Club?
12	reserves and payments usually for a family	12 A I think they were in the process, yes.
14	provided attendant care?	13 Q And it's my understanding that they have done at
15	MR. O'NEILL: Well, let me object because you're asking her to compare it to	least three of those interventions since you've
16	something.	
17	MR. McKENNA: Institutional	16 A I think it's two. I remember two.
18	care.	The wood intolventions whole the Auto Club Well
19	MR. O'NEILL: Objection lack	to each and every branch in the State of Michigan with the MMU Department?
20	of foundation, vague.	20 A Yes. Every branch that had a claim department.
21	Go ahead.	21 Q And every branch that had a claim department, the
22	THE WITNESS: Usually.	22 MMU went through and evaluated only catastrophic
Į.	BY MR. McKENNA:	23 injury files?
1	Q What is the abbreviation APAC? A I don't know,	24 A Yes.
	A I doi! t know.	25 Q And as a result of evaluating those catastrophic
	Page 55	Page 57
	Would you agree that the majority of CPS screens	1 injury files, it was determined that there were
2	that have been produced to me anyway, the ones	2 files that were under reserved?
3 4	that you've read, deal with you indicating that	3 A Yes.
5	you're sending records that are from the branch to MCCA?	4 Q And that would mean that there were files that
Į.	A Yes.	5 where there were benefits that were unpaid or
7 (6 underpaid?
8 A		7 A Correct. 8 O And as a result of discovering these uppoid and/or
9 Ç		the second of discovering these dispaid and/or
10	other than an administrative indication that you	9 underpaid files, what actions, if any, was taken 10 to inform the insureds or their families that
11	were going to be sending information along to the	their file had been reviewed and it was discovered
12	MCCA?	that there were underpayments or nonpayment of
	No.	benefits that were owed?
14 Q		14 MR. O'NEILL: Objection lack
15 16	aware on a file that payments should be made at a	15 of foundation.
17	higher rate or a higher hourly amount, you will	16 THE WITNESS: I don't know.
18	set reserves based on what they are paying as opposed to what is supposed to be paid?	17 BY MR. McKENNA:
19 A	Correct.	18 Q Did anyone at the Auto Club ever tell you that the 19 Auto Club informed the insureds that they
20	MR. O'NEILL: Objection lack	Representation of the modern of that they
21	of foundation.	20 discovered that their benefits were unpaid or 21 underpaid?
22 B	Y MR. McKENNA:	22 A No.
23 Q	Now, are you aware of interventions that were done	23 Q Wouldn't that have been the fair thing to do?
	by the Auto Club?	k and the state of
24		MR. O'NEILL: Objection
		MR. O'NEILL: Objection 25 irrelevant. Her opinion as to what's fair is

15 (Pages 54 to 57)

Page 58	8
1 irrelevant and this is beyond the scope of the	rage
2 Court's Discovery Order. I'm going to instruct	1 "Were you ever advised that
her not to answer.	2 unless someone specifically
4 BY MR. McKENNA:	3 asked you about benefits and
	4 rates that you weren't to
The modered had asked whether their life had	5 tell them?
a state of the an intervention, would you have	6 A. No.
and words and the	7 Q. Have you ever inquired
8 MR. O'NEILL: Objection.	8 whether the insureds are
9 Don't answer it, it's beyond	9 being told?
the scope of the Court's Order.	10 A. No.")
11 BY MR. McKENNA:	11 THE WITNESS, I was a served 11
12 Q If Mr. Williams or his family had asked you, would	not to tell them about benefits, but I did inquire
13 you have told them?	
MR. O'NEILL: Same objection.	about incremental rate increases and I was told not it address it.
Don't answer it.	
16 BY MR. McKENNA:	111111.
17 Q Did you tell the Williamses at any time that you	16 Q And that would have been management not to address
were handling this file that you were aware of an	incremental rate increases?
19 intervention?	18 A Correct.
miet, dilloll,	19 Q Who at management told you not to do that?
THE OTTELL. Objection asked	20 A I don't remember which one it was.
The Library of Cu.	21 Q By not informing people of incremental rate
Work, don't answer me	increases, that would be keeping information away
question, it's been asked and answered. And she's	23 from the insureds?
told you that she's had no communications with	24 A Yes.
25 this claimant.	25 Q Information that the Auto Club was aware of?
Page 59	Page 61
1 MR. McKENNA: It's a different	
question. You're telling her not to answer	1 MR. O'NEILL: Objection lack 2 of foundation.
3 because it's been asked and answered?	· ·
4 MR. O'NEILL: Yes.	TILL WITHESS. 168.
5 MR. McKENNA: We're getting	
6 back into our groove again.	5 Q I mean obviously you'd have to be aware of it to
7 BY MR. McKENNA:	6 say there's an incremental rate increase, this
8 Q The intervention program well, strike that.	
morronnon program Well, Siffice inst	7 person's not getting it and you were told not to
9 Were you ever advised that	8 inform them, correct?
9 Were you ever advised that	8 inform them, correct? 9 A Correct.
9 Were you ever advised that 10 unless someone specifically asked you about	9 A Correct. 9 A Correct. 10 Q Ma'am, the last question and answer that we talked
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16 (Pages 58 to 61)

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Page 6	Page 64
1 Q Do you think that would be problematic for the	1 Q So in doing your job as a reserve specialist, you
Auto Club if the MCCA were to know that you ha	ve 2 rely upon your training that you've received as an
been instructed specifically not to inform people	adjuster to know what's reasonable or
of benefits they're entitled to?	4 unreasonable?
5 MR. O'NEILL: Objection.	5 A Yes.
6 There's no foundation that this Witness' job is to	6 Q And your job in what you do in setting reserves,
7 inform claimants of any sort of benefits.	do you have to do that reasonably just as you did
8 THE WITNESS: I don't know.	8 as a claims adjuster?
9 BY MR. McKENNA:	9 MR. O'NEILL: Objection vague.
10 Q You indicated strike that.	10 THE WITNESS: Yes.
Prior to doing the reserve	11 BY MR. McKENNA:
work were you a claims adjuster?	12 Q And you understand that under the No-Fault Act and
13 A Yes.	under the policy that there's specific meaning to
14 Q And as a claims adjuster you were taught or	the term reasonable?
trained, taught and trained by AAA how to do that	15 A No, I don't know.
16 job, correct?	16 Q Well, you're aware that you only have to pay
17 A Correct.	17 claims that are reasonable?
18 Q You had to understand what the No-Fault Act	18 A Yes.
19 entailed?	19 Q You're aware that the company either through on
20 A Correct.	20 you or whoever else is adjusting a claim has to
21 Q And what the AAA policy entailed?	21 act reasonably?
22 A Correct.	22 A Ves
23 Q Part of the No-Fault policy and the AAA No-Fault	23 MR. O'NEILL: Objection.
policy and the No-Fault Act involves requirements	Don't answer this question,
on the part of the Auto Club to pay reasonable	25 it's beyond the scope of the Court's Order.
	The organic the scope of the Courts Order.
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Page 63	rage 65
1 market rates for claims, correct?	1 BY MR. McKENNA:
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Page	Page 68
and setting reserves, you	instruction to stop doing that?
have to have a perspective of	2 A Yes.
what is reasonable and what	3 Q Prior to that you were doing it?
is unreasonable?")	4 A No, I had never done it. I had never addressed
5 THE WITNESS: No.	5 incremental rate increases.
6 BY MR. McKENNA: 7 O To set a reserve don't you need to be a set of the set	6 I don't longer if it is a
To see a reserve don't you need to know what a	occurred to me one day or what the reason was, but
8 reasonable benefit is?	8 for some reason I asked somebody in management
9 A No.	9 should I do this.
1 4 20 mon do you set reselves flient	10 Q And they told you don't do that ever again?
The second of what the decisions the adjusters make	11 A They just said don't.
That they to paying.	12 O Right?
The work you mis, belote you were fold by the	e 13 A Right.
The same of the day loc about delicient havingh	
1 and the street of belieffes, before you were fold	15 Would you do that?
I was to do mus, did you maye to know what was	16 A That's how I was trained.
reasonable as far as benefits were concerned? 18 A No.	17 Q Okay. Were you told why they wanted you to put
1 110.	the CPS memos screens on there?
The state of the s	19 A No.
mar was a linguist tate than what was	20 Q You just been doing that because that's what you
f some paid on the file that was in front of you	21 were told to do?
i more did you obtain that information?	22 A Correct.
with the fine the light large	23 Q Were you also trained or told to send e-mails to
24 Q Homecare rates or whatever the rate is, I haven't limited it to anything.	24 get additional information?
anything.	25 A No.
Page 67	Page 69
1 A That was just information that I would pick up	I Mi
while I was working at MMU.	1 Q You can use a CPS screen according to what we looked at here on this file and what you've
3 Q So information you picked up doing your job?	3 already testified to on other cases to obtain or
4 A Yes.	4 request information, correct?
5 Q And then you stopped paying attention to that	5 A Correct.
o information after you were instructed not to tell	6 Q But you also have e-mail?
/ people?	17 A Vec
8 A No. I stopped advising branches after all of them	8 Q If you were requesting or communicating
completed homecare training.	9 information by CPS screen it's permanent?
10 Q But you were told specifically to stop doing that,	10 A Correct.
according to your testimony here today?	11 Q Anyone can look at it?
MR. O'NEILL: At what point in	12 A Correct.
time, Counsel?	13 Q If you use e-mails and don't destroy them, anyone
MR. McKENNA: I haven't asked	can look at those as well?
Point in time. One mash total me at	15 A Correct.
what point in time. I didn't ask her about a	16 Q Now, why is it that you would use an e-mail and
r and it district that that she was	not use the CPS screen to communicate regarding a
instructed to stop doing that. THE WITNESS: I was not	18 life, hours, rates, anything at all like that why
TITLE WAS HUL	would you use an e-mail over a CPS memo?
and acted to stop terming when rates went in	20 A That's just how I opted to handle it
was only told not to address incremental rate increases.	21 Q But if you had handled it you knew, you know any
23 BY MR. McKENNA;	arme you do send an e-mail you know that e-mails
	are being destroyed because you're going to
24 Q That's all I'm talking about. 25 You were given a specific	destroy it, right?
I ou were given a specific	
G	25 A Correct.

18 (Pages 66 to 69)

	-		capacii
	Page 7	0	Page 72
1	the internation was, if it was (i) a	1	Q Have you been deposed by Ms. McCluskey?
2	or a server would be permanent and I could read the	, 2	A Yes.
3	- judgo oddia read it, a jary could read it.	3	Q You have had other depositions regarding these
4	anyone ever looking at the file would be able to	4	issues?
5	see what you did or said or requested?	5	A I don't remember if I addressed it in
6	A Correct.	6	Mr. Zebrowski. In Miss McCluskey I did say I
7	Q So why is it then that you use e-mails and not CPS	7	destroyed them.
8	screens?	8	Q And no one from the Auto Club has told you to stop
9	MR. O'NEILL: Objection asked	9	doing that since these depositions have been
10	and another eq.	10	taken?
111	Ten min agam.	11	MR. O'NEILL: Objection asked
12	TIE WITHLOS. I Just mats	12	and answered.
13	non ropida to mandie it.	13	Don't answer it. She's
14		14	answered it two or three times already.
15	Q But you weren't trained to do that or you just did	15	BY MR. McKENNA:
16	this on your own?	16	Q Has anyone from the Auto Club ever addressed your
17	A I just did it on my own.	17	policy of destroying e-mails?
18	Q Everything else that you do, you do because that's	18	A No.
19	what you were trained to do?	19	MR. McKENNA: I want to take a
20	A Yes.	20	break.
21	Q This one thing destroying e-mails is something	21	MR. BURKEEN: Going off the
22	that you decided to do on your own and the Auto	22	record. The time is 11:02 a.m.
23	Club let you do that?	23	(RECESS TAKEN)
24	A Decided to address even address the homecare	24	MR. BURKEEN: Back on the
25	changes. A rate increase that's just something I	25	record the time is 11:06 a.m.
	Page 71		Page 73
1	decided today to do on my own.	,	
2	Q I'm talking about the fact that you destroy	1	MR. McKENNA: Thank you,
3	e-mails?	2	ma'am. I have nothing further. THE WITNESS: Okay. MR. O'NEILL: Okay. MR. BURKEEN: We're ending this deposition. The time is 11:06 a.m. (DEPOSITION CONCLUDED AT 11:06 A.M.)
4	A Yes.	4	THE WITNESS: Okay.
5	Q That's something that you decide to do on your	5	MR. O'NEILL: Okay.
6	own?	6	MR. BURKEEN: We're ending
7	A Yes.	7	this deposition. The time is 11:06 a.m.
8	Q And the Auto Club has let you do that for nine	8	(DEPOSITION CONCLUDED
9	years?	9	AT 11:06 A.M.)
10	MR. O'NEILL: Objection lack	10	
11	of foundation, but go ahead.	11	
12	THE WITNESS: Yes.	12	
13	BY MR. McKENNA:	13	
14	Q And never told you to stop doing it?	14	
15	A Yes.	15	
16	Q And now this is the second deposition that you've	16	
17	given at least with me on the fact that you	17	Marie de la companya
18	destroy e-mails?	18	
	A Yes.	19	
20 (And have you been deposed by anyone else where you	20	
21	have advised them that you destroy e-mails?	21	
22 /	A I had another dep. I don't remember if I	22	
23	addressed that question or not.	23	
24 (Have you been deposed by Mr. Zebrowski?	24	
25 A		25	

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